

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, December 1, 1999

Division One

A084778 -- The People v. Elijah Cooper.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Marchiano, J (Not for Publication.)

A087512 -- In re Christene W., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J (Not for Publication.)

A085978 -- The People v. Amwest Surety Insurance Corrigan, J.

The judgment is affirmed. The People are to recover costs on appeal. Swager, J. We Concur: Strankman, P.J., Marchiano, J (Not for Publication.)

Division Five

A085700 -- In re Dante F., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, December 1, 1999

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., Swager, J., and Marchiano, J.; N. Millner, Deputy Clerk; and CHP Officer S. Aldridge, Bailiff. Justice Stein did not participate in the first case.

A086011 The People,
 v.
 Marcel A.
Cause called and argued by Richard M. Doctoroff, counsel for appellant, and Ron Matthias, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Swager left the bench and Justice Stein participated in the remainder of the calendar.

A086151 Julie DeGregorio,
 v.
 Brennan Enterprises, Inc., et al.
Cause called and argued by Eric C. Shaw, counsel for appellants, and David A. Lowe, counsel for respondent. Cause ordered submitted.

A084181 Raja S. Virk, et al.,
 v.
 Triond, et al.
Cause called and argued by Jack B. Burstein, counsel for appellants, and Matthew F. Graham, counsel for respondents. Cause ordered submitted.

A085952 John Snavelly,
 v.
 Raymond Chong, et al.
Cause called and argued by John Snavelly, appellant in pro per, and Scott Buresh, counsel for respondents. Cause ordered submitted.

A085701 Robert Ramirez, III,
 v.

Circuit City.

Cause called and argued by Rex D. Berry, counsel for appellant, and Joe Creitz, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, December 2, 1999 at 9:00 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, December 2, 1999

Division Two

A083404 -- The People v. David Bryan Curry.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A084806 -- In re Jessica K., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

A082727 -- Cal Northern Petroleum Co., Inc., v. Pam Ormass.

A084266 -- Cal Northern Petroleum Co., Inc., v. Olson Investments.

On this logic we affirm the order awarding fees to Olson Investments and reverse the order denying Ormaas her fees. The Ormaas cause is remanded for further proceedings to determine reasonable attorney fees. Reardon, J. We Concur: Poché Acting P.J., Sepulveda, J. (Not for Publication.)

A087026 -- The People v. Chris Conrad Rodriguez.

The judgment is affirmed. Poché J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Thursday, December 2, 1999 (continued)

Division Five

A088594 -- Mary Anne T., v. The Superior Court of San Mateo County; San Mateo County Department of Youth and Family Services, R.P.I.

The petition for extraordinary writ review and the request for stay are denied on their merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and to setting a hearing under section 366.26. (§ 366.26, subd. (l).) Because the section 366.26 hearing is set for December 17, 1999, our decision is final in this court immediately. Haning, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A085201 -- In re Nicolas L., a Person Coming Under the Juvenile Court Law.

We affirm the judgment. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Thursday, December 2, 1999

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, J., Acting Presiding Justice, Swager, J., and Marchiano, J.; B. Robbins, Deputy Clerk; and CHP Officer T. Tam, Bailiff.

- A083985 The People,
 v.
 Shawn S.
Cause called and argued by George W. Borges, counsel for appellant, and Matthew P. Boyle, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A081489 The People,
 v.
 Marvel Simmons, et al.
Cause called and argued by Deborah Tuttelman, counsel for appellant Johnson, and Sharon G. Birenbaum, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A084277 Brickyard Development Partners, LP,
 v.
 City of Pittsburg.
Cause called and argued by Michael R. Woods, Deputy City Attorney, counsel for appellant, and Elizabeth A. England, counsel for respondent. Cause ordered submitted.
- A081332 City and County of San Francisco,
 v.
 Patricia A. McColm.
Argument waived by appellant via facsimile transmission on December 1, 1999. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Thursday, December 2, 1999

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J., and Swager, J.; N. Millner, Deputy Clerk; and CHP Officer T. Tam, Bailiff.

- A084796 The People,
 v.
 Jamahl Dupree Garner.
Cause called and argued by Dirck P. Newbury, counsel for appellant, and Raymond Cardoza, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A084626 Coalition for Healthy and Humane Business Practices,
 v.
 Never Ending Quails, et al.
Cause called and argued by Baron L. Miller, counsel for appellant, and Paul Wartelle, counsel for respondents. Cause ordered submitted.
- A085373 Berkeley Unified School District, et al.
 v.
 Insurance Company of the West.
Cause called and argued by Robert Curotto, counsel for appellants, and Peter Edrington, counsel for respondent. Cause ordered submitted.
- A080316 Shade Foods, Inc.
 v.
 Innovative Products Sales & Marketing, Inc., et al.
Cause called and argued by Joseph A. Hearst, counsel on behalf of Shade Foods, Inc.; David A. Fike, counsel on behalf of Innovative Products; Harry Chamberlain, counsel on behalf of Royal Insurance Company of America; and Susan Handelman, counsel on behalf of Northbrook National Insurance Company. Cause ordered submitted.

A083789/ Shade Foods, Inc.

A084989 v.

Northbrook National Insurance Company, et al.

Cause called and argued by Joseph A. Hearst, counsel on behalf of Shade Foods, Inc., and Susan Handelman, counsel on behalf of Northbrook National Insurance Company, et al. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, December 3, 1999

Division Two

A086866 -- The People v. Alfredo Serrano.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J.
(Not for Publication.)

**A086159 -- Clifford Young v. California Auto Dealer's Exchange, Inc.
etc., et al.**

The order appealed from is affirmed. Respondents' request for sanctions for a frivolous appeal is denied. Costs on appeal to respondents. The matter is remanded to the trial court for a determination of the amount of reasonable attorneys fees on appeal that should be awarded respondents. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Five

A086307 -- The People v. Keith Douglas Wakefield.

The judgment is affirmed. Haning, J. We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, December 6, 1999

Division Two

A085702 -- Jack McLaughlin, as Superintendent, etc., et al., v. State Board of Education et al; One Nation/One California et al.

The order denying appellants' motion for intervention is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Five

A086358 -- City and County of San Francisco v. San Francisco Assessment Appeals Board No. 1; Pier 39 Limited Partnership. The judgment is affirmed. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

A084835 -- In re Nicole B., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Haning, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, December 7, 1999

Division One

A086445 -- The People v. Samuel Ibarra Barajas, Jr.

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Marchiano, J (Not for Publication.)

Division Two

A089231 -- In re Frederic Ferguson, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Petitioner has a remedy at law by way of appeal. Haerle, Acting P.J.

A089256 -- Grace L. Chin, et al., v. Superior Court of San Francisco; Melinda Deleon, et al, R.P.I.

By the Court: The petition for writ of mandate is denied without prejudice as premature in that no written order has been signed by the trial court in compliance with Code of Civil Procedure section 437c, subdivision (g). (See *Tera Pharmaceuticals, Inc. v. Superior Court* (1985) 170 Cal.App.3d 530, 532; *Continental Insurance Co. v. Superior Court* (1985) 165 Cal.App.3d 1069, 1071-1072; *Young v. Superior Court* (1986) 179 Cal.App.3d 28.) Haerle, Acting P.J.

A089203 -- In re Robert Miranda, on Habeas Corpus .

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A089237 -- In re Robert Turner, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Tuesday, December 7 (continued)

A081206 -- Estate of Theodore J. Schmidt, Deceased.

The judgment is reversed and this case is remanded to the trial court. The trial court is ordered to reconsider the evidence, in a manner consistent with the foregoing, to determine whether Theodore Schmidt was not mentally competent under either subdivisions (a)(1) or (a)(2) of Probate Code section 6100.5 when he executed his August 22, 1991, will. Each party is to bear their own costs on appeal. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A089066 -- Mark T. Gross v. The Superior Court of Napa County; Karen M. Schilter (Gross), R.P.I.

By the Court: The petition for writ of mandate is denied. Haerle, Acting P.J.

A089251 -- Cotati-Rohnert Park Unified School District v. The Superior Court of Sonoma County; Susan Graham, R.P.I.

By The Court: Pending determination of the petition on file herein, and subject to further order of this court, the discovery order of October 25, 1999, granting real party's motion to compel, is temporarily stayed. Haerle, Acting P.J.

Division Four

A088662 -- Shamika P., v. The Superior Court of Alameda County ; Alameda County Social Services Agency, R.P.I.

The order denying reunification services and setting a hearing under section 366.26 complies with governing law and is supported by substantial evidence. The petition for extraordinary writ is denied on the merits. (See § 366.26, subd. (1)(1); Cal. Rules of Court, rule 39.1B(o).) Our decision is final immediately. Reardon, J. We Concur: Poché Acting P.J., Sepulveda, J. (Not for Publication.)

A087370 -- In re Marika T., a Person Coming Under the Juvenile Court Law.

Judgment affirmed. Reardon, J. We Concur: Poché Acting P.J., Sepulveda, J. (Not for Publication.)

Tuesday, December 7, 1999 (continued)

A084446 -- Doyaline Marchbanks v. Fidelity National Title Insurance Company.

The attorney fees order is affirmed. The motion for sanctions is granted. The cause is remanded to the trial court for a hearing to set the amount of attorney fees to be paid to Marchbanks by Fidelity and its counsel. Fidelity is also ordered to pay \$3,000 to the clerk of this court within seven calendar days of the date of this remittitur. Reardon, J. We Concur: Hanlon, P.J., Poché J. (Not for Publication.)

A083204 -- The People v. Michael E. Woodson.

The order is affirmed. Hanlon, P.J. We Concur: Poché J., Sepulveda, J. (Certified for Publication.)

Division Five

A086172 -- William M. Maxey et al v. James Clemons et al.

The judgment in favor of defendants James and Jeanine Clemons is reversed, but in all other respects the judgment is affirmed. Each party shall bear his or her own costs on appeal. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, December 7, 1999

Court reconvened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan, J., Walker, J., and I. Calanoc, Deputy Clerk.

(Justice McGuiness announced the absence of Justice Parrilli in the following cases. All counsel waived Justice Parrilli's personal presence.)

- A083026 Ralph T. Foster,
 v.
 Larry Blake's, et al.
Justice McGuiness announced the panel for this case included Parrilli, J., Walker, J., and McGuiness, P.J. Cause called and argued by Andrea Brott, counsel for appellant, and Kenneth McKenzie, counsel for respondents. Cause ordered submitted.
- A086188 Barry Black,
 v.
 County of Sonoma.
Justice McGuiness announced the panel for this case included Corrigan, J., Parrilli, J. and McGuiness, P.J. Cause called and argued by John Shields, counsel for appellant, and Jeffrey Berk, counsel for respondent. Cause ordered submitted.
- A084458 Ellis Evans,
 v.
 Bernard Hata, et al.
Justice McGuiness announced the panel for this case included Walker, J., Parrilli, J., and McGuiness, P.J. Cause called and argued by Glenn Wurzel, counsel for appellant, and James Kauffman, counsel for respondents. Cause ordered submitted.
- A080911 Sarah Saunders, et al.

v.

U-Haul Company of California, Inc.

Justice McGuiness announced the panel for this case included Walker, J., Parrilli, J., and McGuiness, P.J. Cause called and argued by Kathy Banke, counsel for appellant, and Ellen Lake, counsel for respondents. Cause ordered submitted.

COURT ADJOURNED.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, December 7, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan, J., Walker, J., and C. Turner Deputy Clerk.

- A082878 Harold Aronson,
v.
Texaco, Inc.,
Cause called and argued by Claudia Martin, counsel for appellant, and Jane Sullwold, counsel for respondent. Cause ordered submitted.
- A085726 Sheila Foster,
v.
24-Hour Nautilus, et al.,
Cause called and argued by John Douglas Winer, counsel for appellant, and Henry Lederman and Brian Kindsvater, counsel for respondents. Cause ordered submitted.
- A086139 Sheila Foster,
v.
24-Hour Nautilus, et al.,
Cause called and argued by John Douglas Winer, counsel for appellant, and Henry Lederman and Brian Kindsvater, counsel for respondents. Cause ordered submitted.
- A085955 Robert M. Cassel,
v.
Sullivan, Roche & Johnson,
Cause called and argued by Neil Ruskin Bardack, counsel for appellant, and Joel Dennis Adler, counsel for respondent. Cause ordered submitted.
court recessed until 1:30 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, December 8, 1999

Division Two

A084093 -- The People v. Keith Allen Hamm.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A086139 -- Sheila Foster v. 24 Hour Nautilus et al.

We affirm without considering the parties' arguments regarding whether Foster has waived or repudiated the right to arbitrate her claims. The trial court did not decide these factually driven questions, and will have to do so upon remand. Respondents' motion for sanctions is denied, but they are awarded their costs on appeal. Walker, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A085726 -- Sheila Foster v. 24 Hour Nautilus et al.

The trial court correctly relied upon our decision in *Munshaw* in granting respondents' motions for summary judgment based upon arbitration provisions in Foster's employment agreement. On appeal, Foster has attempted to eliminate the valid arbitration provisions by pointing to an assertedly unconscionable provision in a separate document that has no relevance to the proceedings. Her remaining arguments do not address the issues that were before the trial court on summary judgment, and are therefore not germane to this appeal. The judgments entered in favor of 24 Hour Nautilus and Bijon Hughes are affirmed. Respondents shall recover their costs on appeal. Walker, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Wednesday, December 8, 1999 (continued)

Division Four

A088442 -- Frisco Cycle parts, Inc., v. ITW Nexus.

The motion is granted and the purported appeal is dismissed. * Hanlon, P.J., Reardon, J. and Sepulveda, J.

Division Five

A085550 -- Estate of Clarence G. Lahey, Deceased.

The judgment is affirmed. Jones, P.J. We Concur: Haning, J., Stevens, J.
(Certified for Partial Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, December 9, 1999

Division One

A084775 -- The People v. Ronald Dean Gregg.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A086151 -- Julie DeGregario v. Brennan Enterprises, Inc., et al.

The order is affirmed. Strankman, P.J. We Concur: Stein, J., Marchiano, J (Not for Publication.)

A084796 -- The People v. Jamahl Dupree Garner.

Within 20 days of the filing of this opinion, the People may file a request in this court for modification of the judgment, reducing the conviction of assault with a semiautomatic firearm (§ 245, subd. (b)) to assault with a firearm (§ 245, subd. (a)(2)). If the People file such a request, the remittitur will direct that modification, affirm the judgment as modified, and remand for resentencing. If the People do not file such a request, the remittitur will order reversal of the judgment of conviction of count two, assault with a semiautomatic firearm, affirm the convictions of counts one and three and the enhancement findings, and remand for resentencing. (See *People v. Cooper* (1979) 94 Cal.App.3d 672, 684.) Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A083985 -- In re Shawn S., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J (Not for Publication.)

Thursday, December 9, 1999 (continued)

Division Two

A083843 -- The People v. Sharam Nabavi.

For the reasons stated herein, the judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A082782 -- The People v. Jimmy Wayne Stanfill.

The judgment is reversed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

Division Three

A082878 -- Harold Aronson v. Texaco, Inc.

The judgment is reversed. Each party to bear its own appellate costs. Corrigan, J. We Concur: McGuinness, P.J., Walker, J. (Not for Publication.)

A085955 -- Robert M. Cassel v. Sullivan, Roche & Johnson.

We hold that under the circumstances presented here, *Ely v. Gray* is not analytically sound in light of *Lippel* and *Andresen*. Cassel was not obligated to include a monetary amount in his complaint or to serve a statement of damages on the partnership prior to obtaining the entry of a default and default judgment against it. It was therefore error to vacate the default judgment obtained against respondent in April 1998. We remand with directions that the trial court vacate the superfluous November 1998 judgment and reinstate the April 1998 default judgment, including the award of attorney fees and interest contained therein. Respondent and cross-appellant Cassel shall recover his costs on appeal. Walker, J. We Concur: McGuinness, P.J., Corrigan, J. (Certified for Publication.)

Division Four

A085968 -- The People v. Learard May Peterson.

The judgment is affirmed. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

Thursday, December 9, 1999 (continued)

A083213 -- The People v. Patrick Harvey.

The judgment, including the sentence, is affirmed. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A087669 -- J. Brent Wilkey et al v. The Superior Court of San Francisco County; Vision Integrated Marketing et al., R.P.I.

Accordingly, let a peremptory writ of mandate issue commanding respondent San Francisco County Superior Court to set aside and vacate its order of May 27, 1999, in *Wilkey et al. Vision Integrated Marketing et al.*, case No. 994367, and to enter a new and different order denying the motion to compel arbitration and stay litigation. In all other respects, the petition for writ of mandate is denied as moot. The stay will be dissolved as moot upon the finality of this opinion as to this court. Haning, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A085512 -- In re Lylea R., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Haning, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A086244 -- Steve Chevelle v. Regis Contractors, L.P., et al.

The judgment is affirmed. Haning, J. We Concur: Jones, P.J. Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, December 10, 1999

Division One

A086011 -- In re Michael A., a Person Coming Under the Juvenile Court Law.

The order committing appellant to the California Youth Authority is affirmed. Marchiano, J We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A081332 -- City and County of San Francisco v. Patricia A. McColm.

McColm has not met her burden of showing that the issuance of the preliminary injunction was an abuse of the trial court's discretion. The order issuing the preliminary injunction is affirmed. The City is awarded its appellate costs. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J (Not for Publication.)

A085514 -- In re Khaliliah L., et al., Person Coming Under the Juvenile Court Law.

A086213 -- In re Khaliliah J., et al., Person Coming Under the Juvenile Court Law

Accordingly, the judgments are affirmed. Swager, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

A085701 -- Robert Ramirez III v. Circuit City Stores, Inc.

The order denying Circuit City's motion to compel arbitration is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J (Certified for Publication.)

A085928 -- Jeanette Garcia et al., v. American Home Foods, Inc.

The order granting summary judgment is construed to incorporate a judgment, and is affirmed. Marchiano, J We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Friday, December 10, 1999 (continued)

A085952 -- John Snavely v. Raymond Chong et al.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J (Not for Publication.)

A084181 -- Raja S. Virk, et al., v. Triond, et al.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J (Not for Publication.)

A086337 -- In re Durell R., a Person Coming Under the Juvenile Court Law.

The dispositional order is modified to award no restitution to the insurance company and \$6,877.87 restitution to the property owner, James Medeiros. As so modified the order is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A084805 -- In re Jimmy M., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J (Not for Publication.)

A085028 -- Richard Hagendorf v. Louis Flock et al.

The judgment is affirmed. Marchiano, J We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

Division Two

A084323 -- The People v. Gregory Eugene Doane

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, December 10, 1999 (continued)

Division Four

A082516 -- Estate of Louis Robertson, Deceased.

The order is reversed with instructions to the trial court to enter a new order in conformity with the views expressed herein. Hanlon, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A083696 -- The People v. Lafrance David Beal.

We affirm the judgment. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, December 13, 1999

Division One

A081474 -- James Bateman Petroleum Services, Inc., v. Victor Catanzaro.

Order Modifying Opinion and Denying Rehearing [No Change in Judgment] The Court: It is ordered that the opinion filed herein on November 12, 1999, be modified in the following particulars: (SEE OPINION) The petition for rehearing is denied. Strankman, P.J. (Not for Publication.)

A083194 -- The People v. Mango Watts.

By The Court: The written opinion which was filed on November 23, 1999, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. Stein, Acting P.J.

Division Two

A089278 -- In re Shon R. Yokley, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A089293 -- In re Trevor B. Perkins, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Monday, December 13, 1999 (continued)

Division Three

A085044 -- The People v. Derek Mason.

The judgment is affirmed. Walker, J. We Concur: McGuinness, P.J.,
Corrigan, J. (Not for Publication.)

Division Five

A084183 -- The People v. Paul Joseph Martinez.

The judgment is affirmed. Jones, P.J. We Concur: Haning, J., Stevens, J.
(Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Monday, December 13, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Hanlon, P.J., Reardon, J. and Sepulveda, J.; Channing Hoo, Deputy Clerk; Shelley Aldridge, Bailiff.

A084232 Penny Anne Yeaman
v.
Marianne P. Truta et al.
Cause called. Gary Dolinski argued for appellant Yeaman. Myron Moskovitz argued for respondents. Cause submitted.

A086201 In re Brandon G., a minor.
People
v.
Brandon G.
Cause called. Philip McGough argued for appellant Brandon G. Nanette Winaker argued for respondent. Cause submitted.

The Court adjourned at 10:09 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, December 14, 1999

Division One

A085377 -- Mark West Creek Preservation Association et al., v. County of Sonoma; Shiloh Associates et al., R.P.I.

The order denying an award of attorney fees under Code of Civil Procedure section 1021.5 is affirmed. Strankman, P.J. I concur: Stein, J. (See Dissenting Opinion of Swager, J. (Not for Publication.)

Division Two

A085942 -- In re Ivory O., a Person Coming Under the Juvenile Court Law.

A088328 -- Jose J., v. Superior Court of Napa County; Napa County Department of Health and Human Services, R.P.I.

Both the mother's and father's petitions for extraordinary writ are denied on the merits. (See Cal. Const., art. VI, § 14; Kowis v. Howard (1992) 3 Cal.4th 888; § 366.26, subd. (1) [precluding further challenge to these orders by petitioners in any subsequent appeal].) The orders challenged via appeal are affirmed. Since the permanency planning hearing is presently set for December 21, 1999, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A087016 -- The People v. Phillip Ashley Wormington.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Tuesday, December 14, 1999 (continued)

A085112 -- The People v. John Charles Poshepny.

The judgment of the trial court is reversed. The matter is remanded to the trial court with instructions to reinstate Count I, and conduct a hearing to determine whether counts II-XIV are time-barred under section 803, subdivision (g). If the trial court finds the statute of limitations has run on Counts II-XIV, it shall refuse to reinstate the counts. If the trial court finds the statute of limitation on Counts II-XIV has not yet run, it shall reinstate the counts. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A087385 -- The People v. James Oscar Thompson.

The judgment is affirmed. Walker, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A088381 -- Jean Fuh et al., v. Karl Corbett.

Appellant has made no attempt to show good cause for granting him relief under California Rules of Court, rule 2(c). We therefore dismiss the appeal. (See *Jordan v. Malone* (1992) 5 Cal.App.4th 18, 22.) Walker, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A0851521 -- In re Donnika D., et al., Persons Coming Under the Juvenile Court Law.

Based upon the court's finding, by clear and convincing evidence, that appellant came within the ambit of section 361.5, subdivision (b)(12), which is fully supported by the record, we affirm. Walker, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Tuesday, December 14, 1999 (continued)

A084184 -- Doris Elerick, As Co-Trustee of the Duke Family Trust v. Cheryl Duke, As Co-Trustee of the Duke Family Trust.

The judgment is modified to indicate that any interest awarded before the June 17, 1998 entry of judgment is at the rate of seven percent per annum and then ten percent on and after that date (Code Civ. Proc., § 685.010). In all other respects, the judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A083026 -- Ralph T. Foster v. Larry Blake's et al.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A084458 -- Ellis Evans v. Bernard Hata et al.

The judgment is reversed. Respondents to bear costs of appeal. McGuiness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A086188 -- Barry Black v. County of Sonoma.

The judgment is affirmed. In the interests of justice, each party to bear his or its own costs of appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A088592 -- Lisa C., Superior Court of Sonoma County, Sonoma County Human Services Department; R.P.I.

For all the foregoing reasons, the petition for extraordinary writ is denied on the merits. (Cal. Rules of Court, rule 39.1B(o).) Any stay previously issued in this matter is dissolved. Our decision is final in this court immediately. Sepulveda, J. We Concur: Poché Acting P.J., Reardon, J. (Not for Publication.)

Tuesday, December 14, 1999 (continued)

Division Five

A084276 -- In re Marriage of Sharon and Irvin Reuling.

The judgment is affirmed. Haning, J. We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Tuesday, December 14, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Haerle, Acting P. J., Lambden, J., Ruvolo, J., and S. Graham, Deputy Clerk.

A087128 Gabriel Martinez, et al.
 v.
 Scott Specialty Gasses, Inc., et al.
Cause called and argued by Colin H. Jewell, counsel for appellants and Henry Lederman, counsel for respondents. Cause ordered submitted.

A086365 Janet Nelson Cullers
 v.
 Southern Pacific Transportation
Cause called and argued by Howard Moore, counsel for appellant and Robert L. Zaletel, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A085959 The People
 v.
 Kenneth Allan Benford
Cause called and argued by L. Richard Braucher, counsel for appellant and Christopher Grove, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A086517 Natha M. Smith, et al.
 v.

Superior Court, County of San Francisco
St. Mary's Medical Center, San Francisco, et al.
Cause called and argued by George F. Duke, counsel for petitioners and
Jacques Leboeuf, counsel for real parties in interest. Cause ordered
submitted.

A084862 Virginia Fuller
v.
Regional Center of the East Bay
Cause called and argued by Sharon L. Ceasar, counsel for appellant and
Jacques Leboeuf, counsel for respondent. Cause ordered submitted.

A082234 Arthur Manners, et al.
A083188 v.
Owens Corning
Cause called and argued by Michael Green, counsel for appellant and
Gilbert L. Purcell, counsel for respondents. Cause ordered submitted.

Court recessed until Wednesday, December 16, 1999, at 9:30 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, December 15, 1999

Division One

A085244 -- The People v. Michael Anthony Moore.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J (Not for Publication.)

Division Two

A089320 -- In re Colvin McCright, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A088960 -- Andrew Contreras v. Superior Court of San Francisco County; The People of the State of California, R.P.I.

By the Court: The petition for the writ of prohibition is denied and the temporary stay of trial in *The People v. Contreras*, in San Francisco County SCN 176334, is lifted. Haerle, Acting P.J.

A089370 -- Lynne A. Wilson v. The Superior Court of Contra Costa County; Jay S. Watson, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. We note that the issue raised in this petition is pending before the California Supreme Court in *Wells Fargo v. Superior Court* (1996) 49 Cal.App.4th 1320, review granted January 15, 1997 (S057324). Any review by this court of the merits of the petition would thus be academic. Petitioner is free to seek a grant of review or a grant and hold by the Supreme Court. Lambden, Acting P.J.

Wednesday, December 15, 1999 (continued)

A082385/A083003 -- Linda L. Qualls, et al., v. Lake Berryessa Enterprises, Inc., et al.

The judgment is affirmed. Costs on appeal are awarded to the Quallses. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Certified for Partial Publication.)

Division Four

A085945 -- In re Arturo D., a Person Coming Under the Juvenile Court Law.

The order denying defendant's motion to suppress is reversed and the cause is remanded to the trial court. Poché J. We Concur: Hanlon, P.J., Reardon, J. (Certified for Publication.)

Division Five

A084033 -- Wongco v. City and County of San Francisco.

The judgment is affirmed. Haning, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A084620 -- The People v. Gary Allen Dodson.

The order is affirmed. Haning, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A086969 -- Lewis C. Epstein v. Marin County Sanitary District No.1 et al.

The April 8 Order is vacated, and Epstein's execution of the written agreement, made under threat of contempt for violation of the April 8 Order, is a nullity. The stay imposed by writ of supersedeas is dissolved upon the filing of the remittitur. (See Cal. Rules of Court, rule 25.) Stevens, J. We Concur: Jones, P.J., Haning, J.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, December 15, 1999

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Lambden, J., and I. Santos, Deputy Clerk.

- A085421 The People,
 v.
 Jose Luis Cigarroa Delgado.
Cause called and argued by Violet Elizabeth Grayson, counsel for appellant, and Deputy Attorney General, Ronald E. Niver, counsel for respondent. Cause ordered submitted.
- A086792 The Lucas Dealership Group et al.,
 v.
 Motors Insurance Corporation.
Cause called and argued by Ellyn Nesbit, counsel for appellant, and Susan Olson, counsel for respondent. Cause ordered submitted.
- A087410 David Shore,
 v.
 William Ellis et al.
Cause called and argued via teleconference by David Shore, in pro per, and Lynne Stocker, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J., Ruvolo, J. and I. Santos, Deputy Clerk.

- A086952 Joey Preszler,
 v.
 University of California.
Cause called and argued via teleconference by William Parish, counsel for appellant, and Eric Grover, counsel for respondent. Cause ordered submitted.

A084998

Paul T. Truehart,

v.

Hydro-Flame Corporation.

Cause called and argued by Peter Mallon, counsel for respondent. Counsel for appellant did not make an appearance. Cause ordered submitted.

Court Adjourned.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, December 16, 1999

Division One

A084321 -- The People v. Cleve Ryan III.

Accordingly, the judgment is affirmed. Swager, J. We Concur:
Strankman, P.J., Marchiano, J (Certified for Publication.)

A082278 -- The People v. Thomas Allen Darby.

The judgment is modified by striking the requirement that defendant pay costs of incarceration pursuant to Penal Code section 1203.1c. As modified, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J (Not for Publication.)

Division Two

A083097 -- The People v. Robert Bruce Lamb.

By the Court: It is ordered that the opinion filed herein on November 30, 1999, be modified in the following particular: This modification does not effect a change in the judgment. Kline, P.J.

A083790, A085545 -- Clelen C. Tanner v. Superior Court of the City and County of San Francisco; California State Board of Dental Examiners, R.P.I.

We affirm the judgment. Tanner is to pay costs. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A087199 -- The People v. Douglas Charles Robinson.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Thursday December 16, 1999 (continued)

A084221 -- The People v. Scott Lee Gordon.

The judgment is affirmed. The case is remanded for resentencing in accordance with the views expressed herein. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A081295 -- The People v. Donald Montross Gibson and Arthur Parnell.

The judgments are reversed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A084232 -- Penny Ann Yeaman v. Marianne P. Truta et al.

The trial court properly sustained respondents' plea of another action pending. However, it improperly sustained the demurrer without leave to amend and dismissed the matter. The correct procedure is to enter an interlocutory judgment pursuant to section 597. If Case #1 proceeds to judgment on the merits, respondents should be granted leave to amend to plead the res judicata effect of that judgment in bar of the subsequent action. But if the prior litigation is not determined upon the merits, the trial court "should hear and decide the rights of the parties in accordance with the issues presented by the pleadings in the second action." (*Lord v. Garland* (1946) 27 Cal.2d 840, 851.)

The judgment of dismissal is reversed with directions to the trial court to enter an interlocutory judgment pursuant to section 597. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

December 16, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Haning, J., Stevens, J.; and Strankman, J., sitting by assignment, and Mary P. Quilez, Deputy Clerk.

- A084486 International Pension Club Corporation
 v.
 Wells Fargo Bank, N.A.
Cause called and argued by William E. Mussman, counsel for appellant,
and by Jonathan Roger Bass, counsel for respondent. Cause ordered
submitted.
- A085372 Rick Petersen
 v.
 Greater Lakeport Chamber of Commerce, et al.
Cause called. Michael S. Lunas, counsel for respondent appearing only.
Cause ordered submitted.
- A085141 Paul Michael Roberts, et al.
 v.
 Dr. Carol Fleming, et al.
Cause called and argued by Terry Ladell, counsel for appellant, and by
Steven Barrabee, counsel for respondent. Cause ordered submitted.
- A085917 City of Pleasanton
 v.
 Gary Oetman, et al.
Cause called and argued by Michael H. Roush, City Attorney, counsel for
appellant, and by Scott Jenny, counsel for respondents. Cause ordered
submitted.

A085350 San Mateo County Deputy Sheriffs Association, et al.
v.
Mary Welch
Cause called and argued by Stewart Weinberg, and Carol L. Woodward,
Deputy County Counsel, counsel for appellants, and David Paul Clisham,
counsel for respondent. Cause ordered submitted.

A087251 Lynn Chevalier
v.
State of California, et al.
Cause called and argued by Robert Allen Fowler, counsel for appellant, and
by Bradley Alan Solomon, Deputy Attorney General, counsel for
respondent. Cause ordered submitted.

A086646 David Glenn
v.
Mannie Joel, et al.
Cause called and argued by Brian David Seibel, counsel for appellant, and
William Douglas Thomson, counsel for respondent. Cause ordered
submitted.

A083722 The People
v.
Scott Felix
Cause called and argued by J. Bradley O'Connell, counsel for appellant,
and David Salmon, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

A085628 The People
v.
George Joseph Fonseca
Cause called and argued by Cheryl Delaine Renard, counsel for appellant,
and Michael Banister, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

A086490 The People
v.
Anthony Lanzarin
Cause called and argued by Richard Rochman, counsel for appellant, and
Kathryn Collier, Deputy Attorney General, counsel for respondent. Cause

ordered submitted.

A085622 The People
 v.
 Diana Marie Whiting
 Cause called and argued by Linda Murphy, counsel for appellant, and
 Kathryn Collier, Deputy Attorney General, counsel for respondent. Cause
 ordered submitted.

Court adjourned at 1:45 p.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, December 17, 1999

Division Two

A085658 -- Joe Shekou et al., v. Fred Grange.

The order is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

A089327 -- In re Umar Muhammed Ali, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied without prejudice. Petitioner has failed to allege with particularity the facts upon which relief is sought and has failed to provide this court with the documents to show that petitioner has exhausted his administrative remedies. (In re Swain (1949) 34 Cal.2d 300; In re Muszalski (1975) 52 Cal.App.3d 500.) Haerle, Acting P.J.

**A085378 -- Alisa Caesar v. California State Personnel Board;
California Department of Corrections, R.P.I.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

A079107 -- The People v. Michael Anthony Sims.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

Friday, December 17, 1999 (continued)

Division Three

A088574 -- Tanya M., v. Superior Court of Sonoma County; Sonoma County Department of Human Resources, R.P.I.

A088575 -- David M., v. Superior Court of Sonoma County; Sonoma County Department of Human Resources, R.P.I.

Both petitions for extraordinary relief are denied on their merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard supra*, 3 Cal.4th at p. 894.) Because the section 326.26 hearing is set for December 20, 1999, our decision is final in this court immediately. (Cal. Rules of Court, rule 24(d).) McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A084439 -- The People v. Dishannon Romicco Johnson.

The judgment is affirmed. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

Friday, December 17, 1999 (continued)

Division Five

A086176 -- In re Anthony J., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Haning, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A088152 -- In re Thomas Van Fossen, on Habeas Corpus.

We have determined that Husband is entitled to relief, and that a writ of habeas corpus should be issued in accordance with the views expressed in this opinion.

“Inherent in the power to issue the writ of habeas corpus is the power to fashion a remedy . . .” consistent with what “. . . the justice of the case may require.” (*In re Crow* (1971) 4 Cal.3d 613, 619-620, fn. 7.) The appropriate remedy in this case is an instruction to the trial court to vacate its judgment of contempt. In all other respects, the petition for writ of habeas corpus is denied. The order to show cause is discharged, and the stay previously issued in this matter will be dissolved upon the finality of this opinion as to this court. Stevens, J. We Concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, December 20, 1999

Division Two

A085736 -- The People v. Cheryl Ann Canamore.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A083034 -- Joseph N.Y. Tsu, et al., v. John A. Vos.

By the Court: The petition for rehearing is denied. Kline, P.J.

A084580 -- Rachel Ann Johnson v. Frank Feger, et al.

By the Court: The petitions for rehearing are denied. Kline, P.J.

Division Three

A087355 -- Andrew T. Haas, Jr., et al., v. Union Bank of California et al.

The appeal is dismissed. Respondents shall recover their costs. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A083171 -- Christina Fontanos et al., v. Enrique Roman.

The judgment is affirmed. Plaintiffs' request for attorney's fees and costs on appeal is granted. On suitable application by plaintiffs, the trial court shall fix the amount of fees and costs reasonably incurred on appeal. Sepulveda, J. We Concur: Reardon, J., Poché Acting P.J. (Not for Publication.)

Monday, December 20, 1999 (continued)

A085313 -- The People v. John A. Mendillo.

The judgment is reversed as to sentence only. The matter is remanded for a determination by the trial court whether the two 1989 convictions were for charges brought and tried separately, and for further proceedings consistent with this opinion. Sepulveda, J. We Concur: Poché Acting P.J., Reardon, J. (Not for Publication.)

Monday, December 20, 1999 (continued)

A082655 -- The People v. Michael Tiffjak McEnry.

The judgment is affirmed. Hanlon, P.J. We Concur: Poché J., Reardon, J.
(Not for Publication.)

A084497 -- The People v. Michael Paul Castillo.

For all the foregoing reasons, the judgment of the trial court, including the sentence imposed, is affirmed in its entirety. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Division Five

A085231 -- The People v. Allan Cianci.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Haning, J. (Not for Publication.)

A084334 -- The People v. Leroy Austin.

The judgment of conviction and sentence are affirmed. Stevens, J. We Concur: Jones, P.J., Haning, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

December 20, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Haning, J., and Stevens, J.; and Mary P. Quilez, Deputy Clerk.

- A086415 The People
 v.
 Russell Sturns
 Motion for reconsideration called and argued by Stephen Matchett, counsel
 for appellant, and by Raymond Cardozo, Deputy Attorney General. Matter
 taken under submission.
- A081999 The People
A087009 v.
 Kevin Lee Robinson.
 Cause called. Allan Yannow, Deputy Attorney General, appearing only.
 Submission is deferred.

Court adjourned at 9:30 a.m.

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, December 21, 1999

Division One

A088160 -- The People v. Jeffrey S. Randall.

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Marchiano, J (Not for Publication.)

Division Two

A084567 -- Patsy Phillips v. County of Alameda, et al.

The judgment is affirmed. Costs on appeal to defendants. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Five

A085824 -- The People v. Leland Amos.

The judgment is affirmed. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, December 21, 1999

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan, J. Parrilli, J., and C. Turner Deputy Clerk.

A082565 Kelly Gelini,

v.

Kenneth Tishgart,

Justice McGuiness announced the panel and informed counsel of Justice Walker's absence. Counsel stipulated to waive Justice Walker's personal presence.

Cause called and argued by Michael E. Mortimer, counsel for appellant, and John Marshall True, counsel for respondent. Cause ordered submitted.

A082936 Rosalie Esman,

v.

Healdsburg Unified School District, et al.,

Cause called and argued by James Gordon Bertoli, counsel for appellant, and Marshall E. Bluestone, counsel for respondent. Cause ordered submitted.

Justice McGuiness left the bench.

A084576 Stephen C. Ryan, et al.,

v.

Philip Stillman, et al.,

Justice Corrigan announced the panel and informed counsel of Justice Walker's absence. Counsel waived Justice Walker's personal presence.

Cause called and argued by Barry Zoller, counsel for appellant, and Andrew Harris Wilson, counsel for respondent. Submission deferred for five days for consideration of additional briefing.

A083303 Barbara Blake,

v.

Hawley Dwight Smith,

Justice Corrigan announced the panel and informed counsel of Justice Walker's absence. Counsel requested that the matter be continued for consideration before a full panel. Cause continued.

court recessed until 1:30 p.m.

COURT OF APPEAL

STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Tuesday, December 21, 1999

Court reconvened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan, J. Parrilli, J., and I. Calanoc, Deputy Clerk.

- A081884 The People,
 v.
 Darris Young.
Cause called and argued by Michael Willemsen, counsel for appellant, and Deputy Attorney General William Kuimelis, counsel for respondent. Cause ordered submitted.
- A079608 The People,
 v.
 Jarrett Lamont Jacobs.
Cause called and argued by Christine Dubois, counsel for appellant, and Deputy Attorney General Jeffrey Laurence, counsel for respondent. Cause ordered submitted.
- A084381 West Contra Costa Healthcare District,
 v.
 California Department of Health Services.
Cause called and argued by Douglas Straus, counsel for appellant, and Deputy Attorney General Charlton Holland, counsel for respondent. Cause ordered submitted.
- A083424 The People,
 v.
 Anthony Luquan Gaines.
Justice McGuiness asked both counsel if they were agreeable to Justice Parrilli's listening to oral argument in the court library (where the hearing was being broadcasted) instead of the courtroom since she was feeling ill. Both counsel agreed. Cause called and argued by Erik Larson, counsel for appellant, and Deputy Attorney General John Deist, attorney for respondent. Cause ordered submitted.

COURT ADJOURNED

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, December 22, 1999

Division One

A087314 -- The People v. Mario Armando Hardin.

The order revoking appellant's probation and imposing his previously suspended prior commitment is affirmed. Marchiano, J We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Division Two

A088974 -- Chancellor, Lgt Asset Management, Inc., v. The Superior Court of San Francisco County; David Minella, R.P.I.

By the Court: The petition for writ of prohibition is denied. Haerle, Acting P.J.

A089127 -- Denise J. Serra v. The Superior Court of Alameda County; Richard A. Rogan, R.P.I.

By the Court: The petition for writ of mandate is denied. Haerle, Acting P.J.

A089396 -- In re Roderick Edward Hardnett, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A089387 -- Mel Services, Inc., v. The Superior Court of Alameda County; Patrick Velasquez, et al., R.P.I.

By the Court: The petition for writ of prohibition/mandate is denied. Petitioner has a remedy at law by way of appeal. Haerle, Acting P.J.

Wednesday, December 22, 1999 (continued)

Division Three

A086384 -- In re Steven R., a Person Coming Under the Juvenile Court Law.

The order adjudicating appellant a continued ward of the court pursuant to Welfare and Institutions Code section 602 and placing him outside the home of his parents is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A087110 -- In re the Marriage of Rhoda and David Benedetti.

The judgment is affirmed. Costs to wife. The matter of attorney fees on appeal is remanded to the trial court for determination. Corrigan, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

Division Four

A088505 -- John P. Shelton v. The Superior Court of San Mateo County; Leslie Shelton, R.P.I.

For all the foregoing reasons, father's petition—deemed one for a writ of mandate—is denied on the merits, and the stay imposed on October 8, 1999, is lifted. Father's application to expedite his appeal is denied as moot. As we have decided father's petition on its merits—after giving notice that we would treat the petition as one for writ of mandate, and affording him a full and fair opportunity to brief and present oral argument on any issue about the validity of the custody order—father's appeal, No. A088613, is also dismissed as moot. Sepulveda, J. Hanlon, P.J., Reardon, J. (Not for Publication.)

Division Five

A085970 -- The People v. Jose Cervantes Medina.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Haning, J. (Not for Publication.)

Wednesday, December 22, 1999 (continued)

**A085881 -- In re Patrick G., a Person Coming Under the Juvenile
Court Law.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Haning, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, December 23, 1999

Division One

A085625 -- The People v. Thomas Gomez.

The abstract of judgment is corrected to reflect 121 days custody credit instead of 120 days. With this modification, the judgment is affirmed. Marchiano, J We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A086642 -- The People v. Troy W. Maybee.

The judgment is affirmed. Marchiano, J We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A085951 -- The People v. Juan Carlos Bibiano Salinas.

The judgment is affirmed. Marchiano, J We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A084752 -- The People v. Bernard Thomas.

The judgment of conviction is affirmed. Marchiano, J We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Division Three

A080461 -- State Farm Mutual Automobile Insurance Company et al., v. Chuck Quackenbush, as Insurance Commissioner, etc.

The trial court's order is affirmed. State Farm shall recover its costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Certified for Publication.)

Thursday, December 23, 1999 (continued)

Division Four

A074574 -- The People v. Richard Wright, Jr.

Accordingly, *People v. Jefferson* mandates that appellant be sentenced to imprisonment in the state prison for life with the possibility of parole, with a minimum term of 14 calendar years, plus a consecutive 12-year term for the enhancements. In addition, and to assure that the abstract is unambiguous, it must be modified as follows: (1) the box for life with, rather than without, the possibility of parole is to be checked; (2) the sentence of one year for the prison prior enhancement is to be stricken.

Our prior decision is vacated. The convictions are affirmed. The sentence is modified as stated in the paragraph directly above under heading V. Sentence. Hanlon, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, December 27, 1999

Division One

A086137 -- Arnold R. Menzel et al., v. Robert C. Jones.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J.,
Marchiano, J (Not for Publication.)

A085425 -- The People v. Latroy D. Clinton.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J.,
Marchiano, J

A084199 -- The People v. Vaughn Lamont Miles.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Swager,
J. (Not for Publication.)

**A088869 -- Roes 1,2, and 3 v. The Superior Court of San Francisco
County; Fillmore Apartments, etc., et al, R.P.I.**

Therefore, let a peremptory writ of mandate issue, commanding respondent superior court in Roe 1, Roe 2 and Roe 3 v. Fillmore Apartments, etc., et al. (San Francisco Superior Court No. 300314) as follows.

1) Overrule Fillmore's demurrer to the causes of action in the third amended complaint for sexual battery (Civ. Code, § 1708.5), false imprisonment, deceit, intentional infliction of emotional distress and a violation of Business and Professions Code section 17200 and set aside its order sustaining said demurrer to those causes of action. 2) Overrule Maxim's demurrer to the causes of action in the third amended complaint for false imprisonment, deceit and a violation of Business and Professions Code section 17200 and set aside its order sustaining the demurrer to those causes of action.

Monday, December 27, 1999 (continued)

In all other respects, the petition for writ of mandate is denied. Petitioners shall recover their costs. This opinion is final as to this Court immediately. (Cal. Rules of Court, rule 24(d).) Before Stein, Acting P.J., Swager, J., and Marchiano, J (Not for Publication.)

Division Two

A086197 -- Carol Mardeusz v. Leo Magers.

The appeal from the order of December 23, 1998, is dismissed. The order of January 21, 1999, is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Monday, December 27, 1999 (continued)

A083594 -- Antonio M. Garcia v. Vivek Hejmadi et al.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A081815 -- Fleming Companies, Inc., v. American Motorists Insurance Company.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

A083421 -- The People v. Daniel Wayne Bryant, Jr.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

A084381 -- West Contra Costa Healthcare District v. California Department of Health Services et al.

The matter is remanded to the ALJ for the limited purpose of determining whether the District's late filing is excusable under the Civil Code section 3274 and *Valley View*. In all other respects the judgment is affirmed. Each party is to bear its own costs. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A086493 & A087910 -- The People v. Richard Joseph Valdez.

We order the sentence modified by reducing the aggregate term to 26 years. As so modified, the judgment is affirmed. The matter is remanded to the trial court to prepare an amended abstract of judgment and forward that document to the Department of Corrections. The petition for a writ of habeas corpus is denied. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A084364 -- Dennis Hwang et al., v. Jae Ku Han et al.

The order denying relief is reversed. The trial court is directed to hear and determine the Hans' fee motion. The Hans shall recover their costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Walker, J. (Not for Publication.)

Monday, December 27, 1999 (continued)

**A081884 & A084607 -- The People v. Darris Young.
In re Darris Young on Habeas Corpus**

The judgment is affirmed and the petition is denied. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A086496 -- In re Harold C., a Person Coming Under the Juvenile Court Law.

The juvenile court's jurisdictional and dispositional orders are affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A085909 -- Jens Hansen et al., v. Ernst Haemmerling et al.

The judgment is affirmed. Poché J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Division Five

A083484 -- The People v. Mobassa K. Boyd.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Haning, J. (Not for Publication.)

A080666/A082467 -- Lee J. Kubby et al., v. Melvin E. Cohn et al.

The judgments of dismissal following the sustaining of the demurrers are affirmed. The trial court's orders imposing sanctions on appellant are vacated, solely on procedural grounds. The order to show cause re sanctions issued by this court is discharged, and the requests for imposition of sanctions on appeal are denied. Each party shall bear its own costs on appeal. Stevens, J. We Concur: Jones, P.J., Haning, J. (Not for Publication.)

A085332 -- The People v. Francis W. McArthur.

The judgment of conviction is affirmed. Stevens, J. Jones, P.J., Haning, J. (Not for Publication.)

Monday, December 27, 1999 (continued)

A087251 -- Lynn Chevalier et al., v. State of California et al.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Haning, J.
(Not for Publication.)

MINUTES

COURT OF APPEAL
FIRST APPELLATE DISTRICT
STATE OF CALIFORNIA

Tuesday, December 28, 1999

Division Two

A081615 -- Mary M. Nienaber v. The Papé Group, Inc. et al.

The judgment is reversed in part and affirmed in part. The matter is remanded to the trial court for further proceedings consistent with this opinion. Costs on appeal are awarded to plaintiff. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J.

A085552 -- Maurilio Solorio v. Eddie Andreini et al.

The judgment is reversed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A088794 -- Linda S., v. The Superior Court of Alameda County; Social Services Agency et al., et al, R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Our decision is final in this court immediately. (Cal. Rules of Court, rule 24(d).) Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A082936 -- Rosalie Esman v. The Healdsburg Unified School District et al.

The judgment is affirmed. Each party shall bear its own costs on appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Tuesday December 28, 1999 (continued)

A085944 -- In re Samuel G., a Person Coming Under the Juvenile Court Law.

The trial court's order adjudging the minor to be a ward of the court is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

A086589 -- The People v. Reginald Benton.

In sum, we find no arguable issues for review, pursuant to *People v. Wende*, *supra*, 25 Cal.3d 436. The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

A076543 -- The People v. Cheryl Jeanene Woods et al.

The order suppressing evidence is reversed and the cause is remanded to the trial court to determine whether the searching officers reasonably believed Loza had control over the searched bedroom, and to take such other actions as are consistent with this opinion and the Supreme Court's opinion in *Woods I*. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A082565 -- Kelley Gelini v. Kenneth Tishgart.

The judgment is affirmed. Gelini shall recover her costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Walker, J. (Certified for Publication.)

A083057 -- The People v. Frank Greg Bamba.

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A084576 -- Stephen C. Ryan v. Philip Stillman et al.

The order is reversed. The parties shall bear their own costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Tuesday, December 28, 1999 (continued)

A081420 -- The People v. Brian Traney Hill.

The sentence is reversed and the matter is remanded to permit the trial court to clarify its intent in imposing both the section 667, subdivision (a) and 667.5, subdivision (b) enhancements, and to either grant appellant full pre-custody conduct credits or state a valid basis for denying those credits. In all other respects, the judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A085721 -- Guardianship of Cody A. Cox, a Minor.

The order continuing guardianship is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A086201 -- In re Brandon G., a Person Coming Under the Juvenile Court Law.

Finally, Brandon urges us to find that this matter must be remanded for a new disposition hearing. The trial court committed him to CYA based on its finding that he had committed two felonies—automobile theft and residential burglary. The trial court set the maximum period of confinement at six years and eight months—six years for the residential burglary and eight months for the automobile theft. We have found that Brandon could not legally be found to have stolen a vehicle of which he was a co-owner. (See pt. II., *ante*.) Thus, we order the eight-month term for automobile theft to be stricken. We affirm the modified disposition order.

The finding of automobile theft is ordered stricken. As modified, the jurisdictional order is affirmed. The eight-month term for automobile theft is ordered stricken from the disposition order. The maximum term of commitment now set at six years, the modified disposition order is affirmed. Reardon, J. We Concur: Poché Acting P.J., Sepulveda, J. (Not for Publication.)

Tuesday, December 28, 1999 (continued)

A085391 -- John Novak v. Low, Ball & Lynch et al.

We reverse the judgment with instructions to enter an order granting summary adjudication that the issue of respondents' duty under section 2860, subdivision (f) has been established. (Code Civ. Proc., § 437c, subd. (m)(1).) Reardon, J. We Concur: Poché Acting P.J., Sepulveda, J. (Certified for Publication.)

Division Five

A088573 -- Ann H., v. The Superior Court of Humboldt County; Humboldt County Department of Social Services, R.P.I.

The petition for extraordinary writ review is denied on the merits. (See Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) Petitioner is barred in any subsequent appeal from making further challenges to the orders denying reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (l).) Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

A085307 -- The People v. Shelby Lamont Miller.

We affirm the judgment Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, December 29, 1999

Division Three

A083344 -- The People v. Ronald Dale Owens.

The judgment is modified to award defendant 201 days of custody credit. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A082399 -- The People v. Samuel Bowie.

The judgment is affirmed in all respects. Corrigan, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

Division Four

A086424 -- The People v. Tosey Bivens.

The judgment is therefore affirmed. Sepulveda, J. We Concur: Hanlon, P.J., Poché J. (Not for Publication.)

Division Five

A083784 -- Milton Wise et al., v. Pacific Gas and Electric Company.

The judgment is reversed and remanded with directions to stay judicial proceedings and retain the matter on the court's docket pending further PUC proceedings, and to monitor the progress of the PUC proceedings to ensure against unreasonable delay of appellant's action. (See *Farmers Ins. Exchange, supra*, 2 Cal.4th at pp. 401-402.) Costs to appellants. Haning, J. We Concur: Jones, P.J., Stevens, J. (Certified for Partial Publication.)

Wednesday, December 29, 1999 (continued)

A085114 -- The People v. Nathaniel Murry Lee.

The judgment is affirmed. Haning, J. We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

A086460 -- The People v. Joe Edward Sturns II.

The judgment is affirmed. Haning, J. We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

**A088664 -- Tracy H., v. The Superior Court of Alameda County;
Alameda County Social Services Agency et al, R.P.I.**

The petition for extraordinary relief and request for a stay are denied on their merits. (Cal. Const., art. VI, § 14; rule, 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the order setting a hearing under section 366.26. (§ 366.26, subd. (l).) Because the section 366.26 hearing is set for January 14, 2000, our decision is final as to this court immediately. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

A085448 -- The People v. Robert Howard Grace.

The judgment is affirmed. In fact, appellant has gone out of his way to prove that he is the sort of menace to society for whom the Three Strikes law was designed. Haning, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, December 30, 1999

Division Three

A085770 -- Robert Damico et al., v. Sharlet Cathey et al.

The judgment is reversed, and the case is remanded to the trial court for further proceedings consistent with this opinion. The Damicos shall recover their costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

A086793 -- Tong Park v. County of San Mateo, et al.

The appeal is dismissed. The motions of appellant Tong Park to vacate this court's order of October 25, 1999, are denied as moot. McGuiness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

A085267 -- In re Arthur H., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

Division Five

A086378 -- In re Hennessey S., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

Thursday, December 30, 1999 (continued)

A087669 -- J. Brent Wilkey et al., v. The Superior Court of San Francisco County; Vision Integrated Marketing et al., R.P.I.

Order Modifying Opinion: BY THE COURT:

On the court's own motion, it is ordered that the opinion filed herein on December 9, 1999, be modified in the following particulars: (SEE ORDER)

This modification does not effect a change in the judgment. Jones, P.J. (Not for Publication.)

A086967 -- The People v. Patrick B. Dillow.

The judgment is affirmed. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

A086646 -- David Glenn et al., v. Mannie Joel et al.

The order declining to award fees is affirmed. Jones, P.J. We Concur: Haning, J., Stevens, J. (Not for Publication.)

A086190 -- Estate of Ernest M. Mangold, Deceased.

Juan Bautista Rivera v. Justin I. Greene, as Executor, etc.

The order in case No. P035057 and the judgment in case No. L008677 are affirmed. The request for sanctions is denied. Haning, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

